

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
THURSDAY, MAY 19, 2005, 1:00 P.M.**

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**CALL TO ORDER**

Walter Baade, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:     Mareth Kipp                     Pat Haukohl                     Betty Willert  
                                 Walter Kolb                     Ellen Gennrich

Commission

Members Absent:     Gary Goodchild

Staff

Members Present:     Richard L. Mace, Planning and Zoning Manager  
                                 Sandy Scherer, Senior Planner  
                                 Kathy Brady, Secretary Supervisor  
                                 Elfriede Sprague, Clerk III

Guests Present:       Scott Naylor  
                                 Tim Michael  
                                 Clayton Pichler  
                                 Steve Schafer

**PUBLIC COMMENT**

Chairperson Baade asked if anyone from the audience wished to address the Commission? There being no one, he moved to the next item on the agenda.

Mr. Mace extended an invitation to the Commission from Mr. Kavemeier to tour the Retzer Nature Center and to hold the June 2, 2005, Park and Planning Commission meeting at the facility at 1:00 p.m. It was agreed unanimously to do so. Kathy Brady will verify meeting time and place.

**MINUTES**

- *Mrs. Kipp moved, seconded by Mrs. Haukohl and carried unanimously, for approval of the April 7, 2005, Minutes.*
- *Mrs. Haukohl moved, seconded by Mrs. Gennrich and carried unanimously, for approval of the March 10, 2005, Minutes.*
- *Mrs. Willert moved, seconded by Mrs. Haukohl and carried unanimously, for approval of the March 24, 2005, Minutes.*
- *Mrs. Haukohl moved, seconded by Mrs. Gennrich and carried unanimously, for approval of the April 14, 2005, Minutes*

- **SCU-1366 (Steve Traut) Town of Brookfield, Section 29**

*The matter was withdrawn from the agenda due to lack of information from the town.*

- **SCU-1387A (Steve Durni) Town of Ottawa, Section 26**

Mr. Mace presented the “Staff Report and Recommendation” dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property at W358 S4705 Chickory Ct., abutting the Kettle Moraine State Forest in the Town of Ottawa on the aerial photograph, and stated the petitioner is requesting an after-the-fact Conditional Use Permit for earth-altering activities to construct a retaining wall, berm (existing), pool and deck, and associated landscaping on the subject property.

Mr. Mace pointed out, at one time, this property was in the area to be acquired by the State for the Kettle Moraine State Forest and that the front of the lot is steeply sloped and the rear portion contains Primary Environmental Corridor. Mrs. Gennrich asked why were there no Primary Environmental Corridor restrictions on the Certified Survey Map? Mr. Mace replied the requirement was not on the Land Use Plan at the time of the Certified Survey Map creation in the 70’s. Mr. Mace presented photographs of the site for the Commission to view. Mrs. Gennrich stated her concern regarding approval of the request is that Mr. Durni has already removed approximately 100 trees without a permit and even though he was fined \$400.00, the individual worth of each tree is valued at more than that. Ms. Scherer, Senior Planner, arrived at the meeting and explained what had been done to the property. At this point, Mr. Durni has graded behind the house and placed hay down for stabilization with the intent of putting the swimming pool in that location. The area is currently very flat because the fill from behind his house has been pushed back. He would like to install a retaining wall at that point. Mrs. Gennrich asked why is the Staff suggesting approval of the request? Ms. Scherer replied that he would normally be allowed an area of disturbance. Mrs. Kipp questioned the Condition stating that the total area of disturbance shall not exceed 32,000 sq. ft. and asked if that is a common number and if it is allowed in the Primary Environmental Corridor? Mr. Mace responded the Ordinance allows 15% or 32,000 sq. ft. of disturbance. Mr. Kolb asked what is the current area of disturbance to which Mr. Mace replied 16,000 sq. ft. Mrs. Gennrich asked if the Staff checked with the Building Inspector to see if he indeed did tell Mr. Durni he did not need any permits? Ms. Scherer answered that she spoke with the Building Inspector and it was a he said/she said situation. Mrs. Gennrich expressed concern about the loss of the 100 trees, and Mr. Mace said that they were in a pine plantation and not hardwoods such as hickory or maple. Mrs. Kipp asked who would do the inspection of the replanting as stated in Condition No. 10? Ms. Scherer replied that our department would inspect it and that she was most concerned about the berm being replanted with something besides grass. The piles of dirt on the lot were to be used to fill in around the 24’ above ground circular pool, create a large play area for his children and for the retaining wall. Ms. Haukohl questioned the need to contact the owner before conducting an inspection per Condition No. 10. Ms. Scherer stated yes, the owner had concerns about her chained dogs. Mrs. Kipp asked if he has disturbed any more land in the Primary Environmental Corridor than was allowed. A discussion followed on the interpretation of the Ordinance and Mr. Mace stated the Ordinance allowed a maximum of 15% or 32,000 sq. ft. of disturbance in the Primary Environmental Corridor. Ms. Haukohl requested that disturbance of the Primary Environmental Corridor be agendized on the next meeting to get clarification of the Ordinance. There was discussion pertaining to what seemed to be an excessive amount of disturbance and tree loss on the property. Mr. Mace stated that Mr. Durni had been issued a citation for grading without permits and the fine was paid in court. We charged him double the fee (after-the-fact) for the first Conditional Use, which was denied, and for the present Conditional Use he paid the regular fee. Mr. Kolb said that Mr. Durni, per the Ordinance, was allowed 32,000 sq. ft. of disturbance. Mr. Mace suggested that the Staff should approve the proposed Planting Plan as recommended, so that all characteristic layers of the forest could be restored. A discussion ensued as to conditions for partial restoration of the lot and the trees.

*After discussion Mr. Kolb moved, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. There was no second. After discussion, Mr. Kolb amended his motion, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation” with an added Condition No. 11, which will state:*

- 11. The petitioner shall submit a Planting Plan designed by a Landscape Architect to the Planning and Zoning Division Staff to be reviewed and approved by the County Landscape Architect Staff, restoring a minimum of 6,000 sq. ft. with woodland species indigenous to the area. The planting shall be completed by the end of the Fall 2005 planting season and remain healthy and established thereafter. The petitioner shall submit a Bond or Letter of Credit in the amount of the cost to restore 6,000 sq. ft. with indigenous woodland species to be used by the County in the event the planting is not completed by November 1, 2005, or in the event the vegetation is not healthy and alive by June 1, 2006 and needs to be replaced.*

*The approval of this request will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances*

• **SCU-1400 (Steve Schafer) Town of Ottawa, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated May 19, 2005, and made part of these Minutes. He pointed out the location of the property on Phantom Woods Road on the east side of Hwy. 67 in Section 11 of the Town of Ottawa on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for a Limited Family Business for the operation of an excavation contracting business. Mr. Mace asked if there was a residence located on the property, to which Mr. Schafer (Petitioner) replied that the aerial photo was taken before the house was built and indicated its location on the map, in line with the house to the north of his parcel.

Mrs. Haukohl asked why the Staff is allowing a Limited Family Business in a residential area? Mr. Mace replied that it fronted on S.T.H. 67, everything will be indoors and we accommodated the Limited Family Business use in the recent amendments, which were approved in December or January, which this use would qualify for. Mrs. Willert questioned Condition No. 17 stating only one full time equivalent employee, who is not a member of the family residing on the premises, is allowed. With the amount of equipment on the property, wasn't it likely that Mr. Schafer would have more than one employee? Mr. Schafer answered “No”, and indicated his business has been like this for 50+ years, since his dad had it with the same amount of equipment and with the same number of people working there, two people. His equipment is very seldom on the premises; it is usually on job sites because it is construction equipment. Mrs. Kipp stated she has driven past the area and has not noticed any equipment. Mr. Schafer said he has planted over 500 trees and hickory bushes around his lot line to shield the equipment from the public view. Mr. Mace reviewed the equipment list and explained the uses and sizes for the Commission. Mr. Schafer wondered if he could add a skid steer trailer to the equipment list to eliminate half of his travel time with his semi-trailer coming out of his driveway as his neighbor said his truck came “out on Hwy. 67 a lot”. He indicated that he could use his pickup truck (instead of the semi) to transport equipment, as not to disturb his neighbors. Mr. Mace said that if we added equipment to the list on the Staff Report, it was beyond what the Town authorized, therefore the Town would have to authorize a modification to the list of equipment for the business. Mrs. Gennrich said that if he went back to the Town for a modification of conditions, he could tell them that we would go along with the request. Mrs. Haukohl asked if his neighbors had an issue with the business being there and about the shared driveway access? Mr. Schafer replied there is a five (5) acre parcel behind him, a three (3) acre parcel to the north, and his three (3) acre parcel with lights running down the driveway and the neighbors were fine with the business. The driveway is actually on Mr. Schafer's property and not on the common boundary. He has already approached the State Highway Division and

they made him cut the driveway wider so two vehicles could pass at the same time. Mr. Mace stated he did not want to see any wall pack lights on the building, he wanted to see downcast security lighting to avoid disturbing the neighbors, however, it was not required. Mr. Schafer said he was going to put regular houselights on it, (floodlights) to light the driveway as he only comes and goes during the daylight hours because of the size of his equipment. Mr. Mace stated floodlights would be objectionable; they need to be shielded to shine downward.

*After discussion, Mrs. Willert moved, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation” with an added Condition No. 29, which will state:*

- 29. If the petitioner wishes to purchase additional equipment, (a skid steer trailer) he must receive approval from the Town of Ottawa for modification of the list of vehicles and equipment allowed on the property.*

*The approval of this request will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

• **PO-05-OTWT-2 (Steve Schafer) Town of Ottawa, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property on Phantom Woods Road on the east side of Hwy. 67 in Section 11 of the Town of Ottawa on the aerial photograph and stated the petitioner is requesting a Plan of Operation for a Limited Family Business, for the operation of an excavation contracting business. Mr. Mace asked if there was a residence located on the property to which, Mr. Schafer (Petitioner) replied that the aerial photo was taken before the house was built and indicated its location on the map, in line with the house to the north of his parcel.

Mr. Mace indicated the matter is related to the previous Conditional Use request SCU-1400.

*After a brief discussion, Mrs. Willert moved, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation” with an added Condition No. 29, as stated above. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

• **SCU-1338A (Clay Pichler) Town of Ottawa, Section 18**

Mr. Mace presented the “Staff Report and Recommendation” dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property next to the County Line in Section 18 of the Town of Ottawa on the aerial photograph and stated the petitioner is requesting an after-the-fact Conditional Use Permit for a poured concrete foundation and flatwork contracting business to be operated out of the 60' x 90' accessory building/lean-to.

Mrs. Gennrich expressed concerns that this business was among the estate properties in the area and might affect property values, and also be better suited to an industrial area. Mrs. Kipp asked how long has the business been there? Ms. Scherer replied a few years. Mrs. Gennrich said that a Conditional Use of this kind was allowed in this zone, and Mr. Pichler's request fits the conditions of the Conditional Use. She also asked if the 60' x 90' accessory building currently existed or is he requesting to construct it? Ms. Scherer replied that the building currently exists. Mrs. Gennrich asked why is the petitioner coming before the Commission at this time? Mrs. Scherer replied that people found out about it and reported it, and Mr. Pichler wanted to make sure it was legal. Mr. Mace presented photographs of the

site and indicated that it looked like Mr. Pichler could keep all of his equipment in the building and the lean/to. Mrs. Gennrich sited the concern that the neighbors wanted the site kept neat and orderly. Per the photographs, it was agreed that the site and building were very well kept and screened from view.

*After discussion, Mrs. Kipp moved, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **PO-05-OTWT-1 (Clay Pichler) Town of Ottawa, Section 18**

Mr. Mace presented the “Staff Report and Recommendation” dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property next to the County Line in Section 18 of the Town of Ottawa on the aerial photograph and stated the petitioner is requesting a Site Plan/Plan of Operation Permit for a poured concrete foundation and flatwork contracting business to be operated out of the 60' x 90' accessory building/lean-to.

Mr. Mace indicated the matter is related to the previous Conditional Use request SCU-1388A.

*After a brief discussion, Mrs. Kipp moved, seconded by Mrs. Willert and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **SCU-1398 (Larry Hermann) Town of Mukwonago, Section 34**

*This matter was withdrawn from the agenda because addition information was necessary.*

- **CU-1401 (Michael B. Trease/Trease Painting Co., Inc.) Town of Vernon, Section 20**

Mr. Mace presented the “Staff Memorandum” dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property at S87 W27025 C.T.H. “ES” in the Town of Vernon on the aerial photograph and stated the petitioner is requesting a Limited Family Business Conditional Use for the operation of a painting contractor's business.

Mr. Mace explained that the matter was sent back to the Town by the Commission after the April 28, 2005 meeting with the suggestion that the Town modify their condition because the petitioner would have to get the concurrence of all the owners to vacate the proposed street system, and it would not allow him to do anything with his property. The Certified Survey Maps that were created in the area had a proposed street system connecting the lots. On the surveys they were shown as future road easements, so that if in effect, these people all got together and decided that they were going to build the road, they could build it in such a way as to allow them each to redivide their parcels further. The Town originally said they would have to abandon/vacate the road, however the road does not exist, it is just a future road easement on the surveys. It would take concurrence on the part of all nine owners to vacate; however, some owners want the road and some do not. Also, at this time the road is not viable as a public street opening, as the Department of Transportation will not allow it. The Town has now modified its condition as outlined in the “Staff Memorandum”.

*After discussion, Mrs. Haukohl moved, seconded by Mrs. Willert and carried unanimously, for approval, as conditioned, in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **PO-05-VNT-3 (Michael B. Trease/(Trease Painting Co., Inc.) Town of Vernon, Section 20**

Mr. Mace presented the "Staff Memorandum" dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property at S87 W27025 C.T.H. "ES" in the Town of Vernon on the aerial photograph and stated the petitioner is requesting a Site Plan/Plan of Operation for the operation of a painting contractor's business.

Mr. Mace indicated the matter is related to the previous Conditional Use request CU-1401.

*After a brief discussion, Mrs. Haukohl moved, seconded by Mrs. Willert and carried unanimously, for approval, as conditioned, in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

### **PLAN OF OPERATIONS**

- **PO-04-OCOT-21 (Okauchee Fire Department/Mission Lakes Pump House) Town of Oconomowoc, Section 36**

Mr. Mace presented the "Staff Memorandum" dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property at W349 S5060 Shady Lane, in Section 36 in the Town of Oconomowoc on the aerial photograph and stated the petitioner is requesting approval of the revised Site Plan/Plan of Operation for the pump house, which is slightly larger than originally proposed.

Mr. Naylor, Architect/Engineer of TDI Associates, spoke on the request for the Okauchee Fire Department's pump house. He stated that they are working with the Fire Department on the 18' x 20' building as the original size building was too small to accommodate the Department's equipment. They are currently working with Wisconsin Fire Protection, a sprinkler contractor, and they should be done with their calculations at the end of this week or early next week. They will then coordinate the construction and sprinkler drawings and meet privately with the local fire department for their approval. Mrs. Willert asked if he was representing Mission Lakes or the Fire Department? He replied Mission Lakes and the two were connected by conditions on the approvals. He stated that the list of conditions would all be addressed.

*After discussion, Mrs. Willert moved, seconded by Mrs. Haukohl and carried unanimously, for approval, as conditioned, in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

### **MISCELLANEOUS**

- **(David and Shelly Shanklin) Town of Summit, Section 1**

Mr. Mace presented the "Staff Memorandum" dated May 19, 2005, and made a part of these Minutes. He pointed out the location of the property in Section 1 in the Town of Summit on the aerial photograph and stated the petitioner is requesting to revise Condition No. 1 of the July 24, 2003, Commission decision regarding retaining walls within 5 ft. of property line.

Mrs. Gennrich asked why this was noticed? Mr. Mace replied that during a site inspection the Staff noticed the wall had been built all the way to the lot line instead of five (5) ft. away. A number of years ago, Mr. Shanklin removed a wall in front of his house on the extremely small lot with the intention of replacing the house with a new house. It was conditioned that the wall could be rebuilt, but he had to stay five (5) feet from the lot line, however there was a wall to the lot line, which was covered with the stone and not noticed in 2003. It did not make sense to be five (5) feet from the lot line as another wall on the adjacent lot extends to the Shanklin lot line. He is only replacing an existing wall. Mr. Shanklin was sent a notice of intent to issue a citation. Upon investigating the file, Mr. Mace noticed a wall previously present. So essentially there is a wall next to a wall, but the Staff required him to be five (5) feet from the wall. Therefore the Planning and Zoning Division Staff is recommending the modification of the existing Condition.

*After discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, for approval, as conditioned, in accordance with the "Staff Memorandum". The approval of this request will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.*

- **CS-962 (Gayle Schmitt) Town of Vernon, Section 14**

*This matter was withdrawn from the agenda.*

#### **ADJOURNMENT**

*With no further business to come before the Commission, Mrs. Kipp moved, seconded by Mrs. Willert to adjourn at 2:35 p.m.*

Respectfully submitted,

Ellen Gennrich  
Secretary

EG:es